

Subpart D—Control of Depredating and Otherwise Injurious Birds

§ 21.41 Depredation permits.

(a) *Permit requirement.* Except as provided in §§ 21.42 through 21.46, a depredation permit is required before any person may take, possess, or transport migratory birds for depredation control purposes. No permit is required merely to scare or herd depredating migratory birds other than endangered or threatened species or bald or golden eagles.

(b) *Application procedures.* Submit application for depredation permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, and the following additional information:

- (1) A description of the area where depredations are occurring;
- (2) The nature of the crops or other interests being injured;
- (3) The extent of such injury; and
- (4) The particular species of migratory birds committing the injury.

(c) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, depredation permits shall be subject to requires, in this section:

- (1) Permittees may not kill migratory birds unless specifically authorized on the permit.
- (2) Unless otherwise specifically authorized, when permittees are authorized to kill migratory birds they may do so only with a shotgun not larger than No. 10 gauge fired from the shoulder, and only on or over the threatened area or area described on the permit.
- (3) Permittees may not use blinds, pits, or other means of concealment, decoys, duck calls, or other devices to lure or entice birds within gun range.
- (4) All migratory birds killed shall be retrieved by the permittee and turned over to a Bureau representative or his designee for disposition to charitable or other worthy institutions for use as food, or otherwise disposed of as provided by law.
- (5) Only persons named on the permit are authorized to act as agents of the

permittee under authority of the permit.

(d) *Tenure of permits.* The tenure of depredation permits shall be limited to the dates which appear on its face, but in no case shall be longer than one year.

[39 FR 1178, Jan. 4, 1974, as amended at 42 FR 17122, Mar. 31, 1977; 63 FR 52637, Oct. 1, 1998]

§ 21.42 Authority to issue depredating orders to permit the killing of migratory game birds.

Upon the receipt of evidence clearly showing that migratory game birds have accumulated in such numbers in a particular area as to cause or about to cause serious damage to agricultural, horticultural, and fish cultural interests, the Director is authorized to issue by publication in the FEDERAL REGISTER a depredation order to permit the killing of such birds under the following conditions:

(a) That such birds may only be killed by shooting with a shotgun not larger than No. 10 gauge fired from the shoulder, and only on or over the threatened area or areas;

(b) That shooting shall be limited to such time as may be fixed by the Director on the basis of all circumstances involved. If prior to termination of the period fixed for such shooting, the Director receives information that there no longer exists a serious threat to the area or areas involved, he shall without delay cause to be published in the FEDERAL REGISTER an order of revocation;

(c) That such migratory birds as are killed under the provisions of any depredation order may be used for food or donated to public museums or public scientific and educational institutions for exhibition, scientific, or educational purposes, but shall not be sold, offered for sale, bartered, or shipped for purpose of sale or barter, or be wantonly wasted or destroyed: *Provided*, That any migratory game birds which cannot be so utilized shall be disposed of as prescribed by the Director;

(d) That any order issued pursuant to this section shall not authorize the killing of the designated species of depredating birds contrary to any State laws or regulations. The order shall

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specify that it is issued as an emergency measure designed to relieve depredations only and shall not be construed as opening, reopening, or extending any open hunting season contrary to any regulations promulgated pursuant to section 3 of the Migratory Bird Treaty Act.

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§ 21.43 Depredation order for black-birds, cowbirds, grackles, crows, and magpies.

You do not need a Federal permit to control the species listed in the table below if they are committing or about to commit depredations on ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner that they are a health hazard or other nuisance:

Blackbirds	Cowbirds	Grackles	Crows	Magpies
Brewer's (<i>Euphagus cyanocephalus</i>). Red-winged (<i>Agelaius phoeniceus</i>). Yellow-headed (<i>Xanthocephalus xanthocephalus</i>).	Bronzed (<i>Molothrus aeneus</i>). Brown-headed (<i>Molothrus ater</i>). Shiny (<i>Molothrus bonariensis</i>).	Boat-tailed (<i>Quiscalus major</i>). Common (<i>Quiscalus quiscula</i>). Great-tailed (<i>Quiscalus mexicanus</i>). Greater Antillean (<i>Quiscalus niger</i>).	American (<i>Corvus brachyrhynchos</i>). Fish (<i>Corvus ossifragus</i>). Northwestern (<i>Corvus caurinus</i>).	Black-billed (<i>Pica hudsonia</i>). Yellow-billed (<i>Pica nuttalli</i>).

(a) You must attempt to control depredation by species listed under this depredation order using non-lethal methods before you may use lethal control.

(b) In most cases, if you use a firearm to kill migratory birds under the provisions of this section, you must use nontoxic shot or nontoxic bullets to do so. See § 20.21(j) of this chapter for a listing of approved nontoxic shot types. However, this prohibition does not apply if you use an air rifle, an air pistol, or a 22 caliber rimfire firearm for control of depredating birds under this order.

(c) If you exercise any of the privileges granted by this section, you must allow any Federal, State, tribal, or territorial wildlife law enforcement officer unrestricted access at all reasonable times (including during actual operations) over the premises on which you are conducting the control. You must furnish the officer whatever information he or she may require about your control operations.

(d) You may kill birds under this order only in a way that complies with all State, tribal, or territorial laws or regulations. You must have any State, tribal, or territorial permit required to conduct the activity.

(e) You may not sell, or offer to sell, any bird, or any part thereof, killed

under this section, but you may possess, transport, and otherwise dispose of the bird or its parts.

(f) Any person or agency acting under this depredation order must provide to the appropriate Regional Migratory Bird Permit Office an annual report for each species taken. You can find the addresses for the Regional Migratory Bird Permit Offices in § 2.2 of subchapter A of this chapter. You must submit your report by January 31st of the following year, and you must include the following information:

(1) Your name, address, phone number, and e-mail address;

(2) The species and number of birds taken;

(3) The months in which the birds were taken;

(4) The State(s) and county(ies) in which the birds were taken; and

(5) The general purpose for which the birds were taken (such as for protection of agriculture, human health and safety, property, or natural resources).

(g) The Office of Management and Budget has approved the information collection requirements associated with this depredation order and assigned OMB Control No. 1018–0146. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.